

10/27/1999 10:08:32 AM
Page 1

1999 DRAFTING REQUEST**Bill**Received: **11/17/1998**Received By: **champra**Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC**By/Representing: **Laura Rose**This file may be shown to any legislator: **NO**Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - civil service**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Miscellaneous provisions affecting the state civil service

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	champra 12/09/1998	jgeller 02/08/1999		_____			State
/P1			ismith 02/08/1999	_____	lrb_docadmin 02/08/1999		State
/P2	champra 03/24/1999	jgeller 03/24/1999	martykr 03/24/1999	_____	lrb_docadmin 03/24/1999		State
/1	champra 10/26/1999	jgeller 10/26/1999	jfrantze 10/27/1999	_____	lrb_docadmin 10/27/1999	lrb_docadmin 10/27/1999	

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3/24/99 3:57:10 PM
Page 1

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FE Sent For:

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JACKET FOR
SENATE

2/8/99 11:59:51 AM

Page 1

1999 DRAFTING REQUEST

Bill

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Topic:

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1999 DRAFTING REQUEST

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By/Representing: **Laura Rose**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - civil service**

Extra Copies:

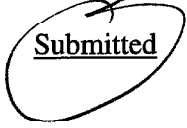
Topic:

Miscellaneous provisions affecting the state civil service

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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Please submit "c/p" draft

FE Sent For:

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November 13, 1998

Dear LRB Drafter, *Rich*

It's Law Revision time again. Actually, we're sending stuff over quite a bit earlier this time around. Gordon Anderson and I met with the LRB Team Leaders earlier this week regarding Law Revision issues. Our goal for the LRC for the upcoming session is to get as much of this out of the way as possible before the budget passes. Obviously, we understand that this may or may not be possible depending on the drafting workloads that each of you are confronted with, but to the extent we can accomplish this, it would be great.

Therefore, we'd like these drafts back by February if possible, but the sooner the better. Then we can insert our SECTION notes and present them to the LRC for review and vote. Please draft each agency item as a separate draft at this time. The approved drafts will be combined into one bill after the LRC meets. For re-introductions of last year's drafts that didn't pass, just keep the drafts as is.

We've pre-screened all of these and have crossed out the ones we won't be presenting to the LRC. Just draft the ones that aren't crossed out.

One final thing – these should all be drafted with the LRC's boilerplate prefatory note, and the end of the relating clause should read: “(suggested as remedial legislation by the [department name here])”.

Please call me at 266-9791 or Gordon at 266-2230 if you have any questions.

Thanks,

Laura Rose
Leg. Council

State of Wisconsin

Tommy G. Thompson
Governor

Jon E. Litscher
Secretary



137 East Wilson Street
P.O. Box 7855
Madison, WI 53707-7855
Phone (608) 266-9820
FAX (608) 267-1020

DEPARTMENT OF EMPLOYMENT RELATIONS

DATE: November 5, 1998

TO: Laura Rose
Law Revision Committee
Legislative Council

FROM: Jon E. Litscher, Secretary

SUBJECT: Remedial Legislation

The Department of Employment Relations requests that two remedial proposals be introduced for consideration by the Law Revision Committee. The Department has submitted drafting instructions to the Legislative Reference Bureau. If there are any questions, please contact Bob Van Hoesen at 267-1003, 267-1020 (fax) or by e-mail at bvanhoes@mail.state.wi.us.

ITEM I The Department requests re-introduction of 1997 AB 958, a remedial bill from the last session which did not pass. A copy is attached as Attachment 1. However, several changes need to be made to the 1997 proposal:

1. Section 2 of the bill (amendments to s. 230.05 (2)(a)) has already been enacted in another remedial bill from last session offered by the Personnel Commission (1997 Wisconsin Act 216). This section can be omitted from the 1999 bill.
2. Section 4 of the bill: the existing language affected by this section was amended by 1997 Wisconsin Act 191, but this has no substantive effect on the remedial change we are seeking.
3. Section 7 of the bill: the existing language affected by this section was amended by 1997 Wisconsin Act 307, but this has no substantive effect on the remedial change we are seeking.

ITEM II In addition, the Department requests that the Law Revision Committee introduce a proposal to change the term "handicap" to "disability" throughout Chapter 230 of the Statutes, which is the primary statutory chapter affecting Department of Employment Relations. Attachment 2 explains this request in more detail.

attachments



AN EQUAL OPPORTUNITY EMPLOYER



1997 ASSEMBLY BILL 958

March 26, 1998 - Introduced by LAW REVISION COMMITTEE, Referred to Committee on Government Operations.

1 **AN ACT** *to repeal* 20.923 (6) (n), 230.16 (8) and 230.20 (3); *to amend* 230.05 (2)
2 (a), 230.12 (1) (c) 2., 230.13 (1) (intro.), 230.33 (1), 230.33 (2), 230.34 (1) (a),
3 230.34 (1) (ar), 230.40 (2) and 230.44 (1) (c); and *to create* 230.33 (1m) of the
4 statutes; **relating to:** restoration and reinstatement rights of classified
5 employees appointed to unclassified positions; leaves of absence from state
6 employment to seek partisan political office; compensation and employment
7 rights of assistant district attorneys; the salary of the position of Wisconsin
8 veterans museum superintendent; authority of the administrator of the
9 division of merit recruitment and selection in the department of employment
10 relations to appoint local examiners; solicitation of recommendations for
11 positions in the classified service of the state; the appeal of certain decisions of
12 the administrator of the division of merit recruitment and selection in the
13 department of employment relations to the personnel commission; and closed

ASSEMBLY BILL 958

- 1 records relating to state employment (suggested as remedial legislation by the
2 department of employment relations).
-

Analysis by the Legislative Reference Bureau

This bill does all of the following:

1. Under current law, "a person appointed by the governor, elected officer, judicial body or by a legislative body or committee, or by any other appointing authority when both the classified and unclassified positions are within his or her department," must be granted a leave of absence without pay for the duration of the unclassified appointment and for 3 months following the end of the appointment. During this period, the person has restoration rights to the state agency from which he or she last held an appointment in the classified service. According to the department of employment relations (DER), there is some ambiguity as to whether the classified and unclassified positions must be within the same department when the person is appointed by the governor, elected officer, judicial body or by a legislative body or committee for the person to be granted a leave of absence and have the restoration rights.

This bill clearly provides that a person employed in the classified service of this state and who is appointed to any unclassified position by the governor, an elected officer, a judicial body or by a legislative body or committee must be granted a leave of absence without pay for the duration of the unclassified appointment and for 3 months following the end of the appointment. During this period, the person has restoration rights to the state agency from which he or she last held an appointment in the classified service.

2. Under current law, if a person in the classified service of the state declares an intention to run for partisan political office the person shall be *given* a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office. According to DER, this provision may be interpreted in such a manner that the employer may regard the granting of the leave of absence as discretionary. This bill provides that if a person in the classified service declares an intention to run for partisan political office the person shall be *placed on* a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office. According to DER, this change in the law will now make this provision mandatory on the employer.

3. Under current law, assistant district attorneys are state employees. Other than assistant district attorneys who are supervisors, assistant district attorneys have their compensation established in collective bargaining agreements under the state employment labor relations act (SELRA). Before 1990, however, assistant district attorneys were not state employees and did not have their compensation established in a collective bargaining agreement under SELRA. Current law provides for extra compensation for assistant district attorneys in the compensation plan. This bill eliminates this provision, with the result that those assistant district

ASSEMBLY BILL 958

attorneys whose compensation is established in the compensation plan are governed by the general extra compensation provisions of the compensation plan.

In addition, current law refers to certain employment rights of assistant district attorneys who first became state employees in 1990 and had accumulated at least 12 months of continuous service as county and state employees. These rights pertain to demotion, layoff, suspension and discharge. This bill eliminates the references to these assistant district attorneys who became state employees in 1990 and who had accumulated at least 12 months of continuous service as county and state employees.

4. This bill eliminates a provision in current law that the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. Currently, there is no such position in state government; instead, the department of veterans affairs operates the Wisconsin veterans museum.

5. Under current law, the administrator of the division of merit recruitment and selection in DER is authorized to designate any person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. This bill eliminates this authority.

6. Under current law, an applicant for a promotion to a position in the classified service of this state may not solicit recommendations. This bill eliminates this prohibition.

7. Under current law, the administrator of the division of merit recruitment and selection in DER may delegate any of his or her functions relating to filling positions in the classified service of this state to the appointing authority of any state agency. Current law provides that any delegatory action taken by an appointing authority is appealable to the personnel commission under the personnel commission's authority to hear appeals of any decision or delegated decision of the secretary of employment relations. This bill provides that any delegatory action taken by an appointing authority is appealable to the personnel commission under the personnel commission's authority to hear appeals of any decision or delegated decision of the administrator of the division of merit recruitment and selection in DER.

8. Under current law, with certain exceptions, the secretary of employment relations and the administrator of the division of merit recruitment and selection in DER are authorized to keep closed to the public certain personnel records relating to examination scores and ranks and other evaluations of applicants for state employe positions, dismissals, demotions and other disciplinary actions affecting state employees and pay survey data obtained from private employers and the names of these private employers.

This bill requires, rather than authorizes, the secretary and the administrator to keep these records closed to the public.

ASSEMBLY BILL 958

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employment relations and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 20.923 (6) (n) of the statutes is repealed.

NOTE: Under current law, the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. However, there is no such position. Therefore, this section is repealed.

2 **SECTION 2.** 230.05 (2) (a) of the statutes is amended to read:

3 230.05 (2) (a) Except as provided under par. (b), the administrator may
4 delegate, in writing, any of his or her functions set forth in this subchapter to an
5 appointing authority, within prescribed standards if the administrator finds that the
6 agency has personnel management capabilities to perform such functions effectively
7 and has indicated its approval and willingness to accept such responsibility by
8 written agreement. If the administrator determines that any agency is not
9 performing such delegated function within prescribed standards, the administrator
10 shall withdraw such delegated function. The administrator may order transfer to
11 the division from the agency to which delegation was made such agency staff and
12 other resources as necessary to perform such functions if increased staff was
13 authorized to that agency as a consequence of such delegation or if the division
14 reduced staff or shifted staff to new responsibilities as a result of such delegation
15 subject to the approval of the joint committee on finance. Any delegatory action
16 taken under this subsection by any appointing authority may be appealed to the

ASSEMBLY BILL 958

1 personnel commission under s. 230.44 (1) ~~(b)~~ (a). The administrator shall be a party
2 in such appeal.

NOTE: Currently, the administrator of the division of merit recruitment and selection in the department of employment relations is authorized to delegate any of his or her functions relating to filling positions in the classified service to the appointing authority of any state agency. Also, any action taken by an appointing authority under this delegation is appealable to the personnel commission. This section corrects a cross-reference to refer to appeals to the personnel commission under its authority to hear appeals of decisions or delegated decisions of the administrator of the division of merit, recruitment and selection.

3 **SECTION 3.** 230.12 (1) (c) 2. of the statutes is amended to read:

4 230.12 (1) (c) 2. The secretary may establish a plan of extra compensation for
5 work performed during selected hours at an hourly rate or rates subject to approval
6 of the joint committee on employment relations. ~~The secretary may establish a plan~~
7 ~~of extra compensation for assistant district attorneys, which may include extra~~
8 ~~compensation for work performed during selected hours or for special duty such as~~
9 ~~on call duty, at hourly rates subject to the approval of the joint committee on~~
10 ~~employment relations.~~ Eligibility for such extra compensation shall be as provided
11 in the compensation plan.

NOTE: This provision is amended to eliminate the authority of the secretary of employment relations to establish a plan of extra compensation for assistant district attorneys. The effect of this change is that the assistant district attorneys whose compensation is established in the compensation plan will be governed by the general extra compensation provisions of that plan.

12 **SECTION 4.** 230.13 (1) (intro.) of the statutes is amended to read:

13 230.13 (1) (intro.) Except as provided in s. 103.13, the secretary and the
14 administrator ~~may~~ shall keep records of the following personnel matters closed to the
15 public:

NOTE: Currently, under s. 230.13 (1), stats., the secretary of employment relations and the administrator of the division of merit recruitment and selection may keep certain personnel records closed to the public. These records relate to examination scores and ranks and other evaluations of applicants, dismissals, demotions and other disciplinary actions, pay survey data obtained from private employers and the names of those private employers. This provision requires, rather than permits, the secretary and the administrator to keep these personnel records closed to the public.

1 **SECTION 5.** 230.16 (8) of the statutes is repealed.

NOTE: Currently, the administrator of the division of merit recruitment and selection in the department of employment relations is authorized to designate a person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. The provision is not used. Therefore, it is repealed.

2 **SECTION 6.** 230.20 (3) of the statutes is repealed.

NOTE: Currently, applicants for a promotion to a position in the classified service in Wisconsin may not solicit "recommendations". This bill eliminates the prohibition.

3 **SECTION 7.** 230.33 (1) of the statutes is amended to read:

4 230.33 (1) A person appointed to an unclassified position by the governor,
5 elected officer, judicial body or by a legislative body or committee, ~~or by any other~~
6 ~~appointing authority when both the classified and unclassified positions are within~~
7 ~~his or her department,~~ shall be granted a leave of absence without pay for the
8 duration of the appointment and for 3 months thereafter, during which time the
9 person has restoration rights to the former position or equivalent position in the
10 department in which last employed in a classified position without loss of seniority.
11 The person shall also have reinstatement privileges for 3 years following
12 appointment to the unclassified service or for one year after termination of the
13 unclassified appointment whichever is longer. Restoration rights and reinstatement
14 privileges shall be forfeited if the reason for termination of the unclassified
15 appointment would also be reason for discharge from the former position in the
16 classified service.

NOTE: This provision is amended to limit its applicability to persons appointed to an unclassified position by the governor, elected official judicial body or by a legislative body or committee.

17 **SECTION 8.** 230.33 (1m) of the statutes is created to read:

18 230.33 (1m) A person appointed to an unclassified position by an appointing
19 authority other than an appointing authority described under sub. (1), when both the

ASSEMBLY BILL 958

1 classified and unclassified positions are within the appointing authority's
2 department, shall be granted a leave of absence without pay for the duration of the
3 appointment and for 3 months thereafter, during which time the person has
4 restoration rights to the former position or equivalent position in the department in
5 which last employed in a classified position without loss of seniority. The person
6 shall also have reinstatement privileges for 3 years following appointment to the
7 unclassified service or for one year after termination of the unclassified appointment
8 whichever is longer. Restoration rights and reinstatement privileges shall be
9 forfeited if the reason for termination of the unclassified appointment would also be
10 reason for discharge from the former position in the classified service.

NOTE: This provision provides that a person who is appointed in an unclassified position by an appointing authority other than those listed in s. 230.33 (1), stats., when both the classified and unclassified positions are within the appointing authority's department, shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter. The person will have restoration and reinstatement rights that are the same as a person appointed to an unclassified position by those authorities listed in s. 230.33 (1), stats.

11 **SECTION 9.** 230.33 (2) of the statutes is amended to read:

12 230.33 (2) A person appointed to an unclassified position by an appointing
13 authority other than an elected officer, judicial body, legislative body or committee
14 appointing authority described under sub. (1), to a department other than the one
15 in which the person was a classified employee may be granted a leave of absence
16 without pay at the option of the person's former appointing authority in accordance
17 with the leave of absence provisions in the rules of the secretary. An employee granted
18 a leave of absence shall have the same restoration rights and reinstatement
19 privileges as under sub. (1) (1m). If not granted a leave of absence, the employee shall
20 be entitled only to the reinstatement privileges under sub. (1) (1m).

21 **SECTION 10.** 230.34 (1) (a) of the statutes is amended to read:

ASSEMBLY BILL 958

SECTION 10

1 230.34 (1) (a) An employee with permanent status in class or an employee who
2 has served with the state ~~or a county, or both,~~ as an assistant district attorney for a
3 continuous period of 12 months or more may be removed, suspended without pay,
4 discharged, reduced in base pay or demoted only for just cause.

NOTE: This provision removes references to employees who have served with the state or county or both, as an assistant district attorney for a continuous period of 12 months. All assistant district attorneys are state, rather than county, employees, effective January 1, 1990.

5 SECTION 11. 230.34 (1) (ar) of the statutes is amended to read:

6 230.34 (1) (ar) Paragraphs (a) and (am) apply to all employees with permanent
7 status in class in the classified service and all employees who have served with the
8 state ~~or a county, or both,~~ as an assistant district attorney for a continuous period of
9 12 months or more, except that for employees specified in s. 111.81 (7) (a) in a collective
10 bargaining unit for which a representative is recognized or certified, or for employees
11 specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a
12 representative is certified, if a collective bargaining agreement is in effect covering
13 employees in the collective bargaining unit, the determination of just cause and all
14 aspects of the appeal procedure shall be governed by the provisions of the collective
15 bargaining agreement.

NOTE: This section deletes the reference to counties in this provision to be consistent with the change made by SECTION 10.

16 SECTION 12. 230.40 (2) of the statutes is amended to read:

17 230.40 (2) If a person in the classified service declares an intention to run for
18 partisan political office the person shall be ~~given~~ placed on a leave of absence for the
19 duration of the election campaign and if elected shall separate from the classified
20 service on assuming the duties and responsibilities of such office.

NOTE: This provision removes a perceived ambiguity in whether a leave of absence is discretionary if a person in the classified service declares an intention to run for partisan political office. It provides that a person shall be placed on a leave of absence

ASSEMBLY BILL 958

rather than "given" a leave of absence. This clarifies that the provision is not discretionary. The person must be placed on a leave of absence regardless of the wishes of the person or agency.

1 **SECTION 13.** 230.44 (1) (c) of the statutes is amended to read:

2 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employe has
3 permanent status in class, or an employe has served with the state ~~or a county, or~~
4 ~~both,~~ as an assistant district attorney for a continuous period of 12 months or more,
5 the employe may appeal a demotion, layoff, suspension, discharge or reduction in
6 base pay to the commission, if the appeal alleges that the decision was not based on
7 just cause.

NOTE: This section deletes the reference to counties to be consistent with the change
made by SECTION 10.

8

(END)



State of Wisconsin
1997-1998 LEGISLATURE
1999-2000

LRB-51674

RAC:all:jf

LRB-0904/PI
RAC:jlg

LAW REVISION
In editing
12/9/98

1999
1997 ASSEMBLY BILL 958

WED
per KSH

March 26, 1998 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Government Operations.

-regen.

1 AN ACT *to repeal* 20.923 (6) (n), 230.16 (8) and 230.20 (3); *to amend* 230.05 (2)

2 (a), 230.12 (1) (c) 2., 230.13 (1) (intro.), 230.33 (1), 230.33 (2), 230.34 (1) (a),

3 230.34 (1) (ar), 230.40 (2) and 230.44 (1) (c); and *to create* 230.33 (1m) of the

4 statutes; **relating to:** restoration and reinstatement rights of classified

5 employees appointed to unclassified positions; leaves of absence from state

6 employment to seek partisan political office; compensation and employment

7 rights of assistant district attorneys; the salary of the position of Wisconsin

8 veterans museum superintendent; authority of the administrator of the

9 division of merit recruitment and selection in the department of employment

10 relations to appoint local examiners; solicitation of recommendations for

11 positions in the classified service of the state; ~~the appeal of certain decisions of~~

12 ~~the administrator of the division of merit recruitment and selection in the~~

13 ~~department of employment relations to the personnel commission;~~ and closed

ASSEMBLY BILL 958

- 1 records relating to state employment (suggested as remedial legislation by the
2 department of employment relations).

Analysis by the Legislative Reference Bureau

This bill does all of the following:

1. Under current law, "a person appointed by the governor, elected officer, judicial body or by a legislative body or committee, or by any other appointing authority when both the classified and unclassified positions are within his or her department," must be granted a leave of absence without pay for the duration of the unclassified appointment and for ~~3~~ ^{three} months following the end of the appointment. During this period, the person has restoration rights to the state agency from which he or she last held an appointment in the classified service. According to the department of employment relations (DER), there is some ambiguity as to whether the classified and unclassified positions must be within the same department when the person is appointed by the governor, elected officer, judicial body or by a legislative body or committee for the person to be granted a leave of absence and have the restoration rights.

This bill clearly provides that a person employed in the classified service of this state and who is appointed to any unclassified position by the governor, an elected officer, a judicial body or by a legislative body or committee must be granted a leave of absence without pay for the duration of the unclassified appointment and for ~~3~~ ^{three} months following the end of the appointment. During this period, the person has restoration rights to the state agency from which he or she last held an appointment in the classified service.

2. Under current law, if a person in the classified service of the state declares an intention to run for partisan political office the person shall be *given* a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office. According to DER, this provision may be interpreted in such a manner that the employer may regard the granting of the leave of absence as discretionary. This bill provides that if a person in the classified service declares an intention to run for partisan political office the person shall be *placed on* a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office. According to DER, this change in the law will now make this provision mandatory on the employer.

3. Under current law, assistant district attorneys are state employees. Other than assistant district attorneys who are supervisors, assistant district attorneys have their compensation established in collective bargaining agreements under the state employment labor relations act (SELRA). Before 1990, however, assistant district attorneys were not state employees and did not have their compensation established in a collective bargaining agreement under SELRA. Current law provides for extra compensation for assistant district attorneys in the compensation plan. This bill eliminates this provision, with the result that those assistant district

ASSEMBLY BILL 958

attorneys whose compensation is established in the compensation plan are governed by the general extra compensation provisions of the compensation plan.

In addition, current law refers to certain employment rights of assistant district attorneys who first became state employees in 1990 and had accumulated at least 12 months of continuous service as county and state employees. These rights pertain to demotion, layoff, suspension and discharge. This bill eliminates the references to these assistant district attorneys who became state employees in 1990 and who had accumulated at least 12 months of continuous service as county and state employees.

4. This bill eliminates a provision in current law that the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. Currently, there is no such position in state government; instead, the department of veterans affairs operates the Wisconsin veterans museum.

5. Under current law, the administrator of the division of merit recruitment and selection in DER is authorized to designate any person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. This bill eliminates this authority.

6. Under current law, an applicant for a promotion to a position in the classified service of this state may not solicit recommendations. This bill eliminates this prohibition.

~~7. Under current law, the administrator of the division of merit recruitment and selection in DER may delegate any of his or her functions relating to filling positions in the classified service of this state to the appointing authority of any state agency. Current law provides that any delegatory action taken by an appointing authority is appealable to the personnel commission under the personnel commission's authority to hear appeals of any decision or delegated decision of the secretary of employment relations. This bill provides that any delegatory action taken by an appointing authority is appealable to the personnel commission under the personnel commission's authority to hear appeals of any decision or delegated decision of the administrator of the division of merit recruitment and selection in DER.~~

8. Under current law, with certain exceptions, the secretary of employment relations and the administrator of the division of merit recruitment and selection in DER are authorized to keep closed to the public certain personnel records relating to examination scores and ranks and other evaluations of applicants for state employee positions, dismissals, demotions and other disciplinary actions affecting state employees and pay survey data obtained from private employers and the names of these private employers.

This bill requires, rather than authorizes, the secretary and the administrator to keep these records closed to the public.

ASSEMBLY BILL 958

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employment relations and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 20.923 (6) (n) of the statutes is repealed.

NOTE: Under current law, the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. However, there is no such position. Therefore, this section is repealed.

2 **SECTION 2.** 230.05 (2) (a) of the statutes is amended to read:

3 230.05 (2) (a) Except as provided under par. (b), the administrator may
4 delegate, in writing, any of his or her functions set forth in this subchapter to an
5 appointing authority, within prescribed standards if the administrator finds that the
6 agency has personnel management capabilities to perform such functions effectively
7 and has indicated its approval and willingness to accept such responsibility by
8 written agreement. If the administrator determines that any agency is not
9 performing such delegated function within prescribed standards, the administrator
10 shall withdraw such delegated function. The administrator may order transfer to
11 the division from the agency to which delegation was made such agency staff and
12 other resources as necessary to perform such functions if increased staff was
13 authorized to that agency as a consequence of such delegation or if the division
14 reduced staff or shifted staff to new responsibilities as a result of such delegation
15 subject to the approval of the joint committee on finance. Any delegatory action
16 taken under this subsection by any appointing authority may be appealed to the

ASSEMBLY BILL 958

1 personnel commission under s. 230.44 (1) ~~(b)~~ (a). The administrator shall be a party
2 in such appeal.

NOTE: Currently, the administrator of the division of merit recruitment and selection in the department of employment relations is authorized to delegate any of his or her functions relating to filling positions in the classified service to the appointing authority of any state agency. Also, any action taken by an appointing authority under this delegation is appealable to the personnel commission. This section corrects a cross-reference to refer to appeals to the personnel commission under its authority to hear appeals of decisions or delegated decisions of the administrator of the division of merit, recruitment and selection.

3 SECTION 3. 230.12 (1) (c) 2. [✓] of the statutes is amended to read:

4 230.12 (1) (c) 2. The secretary may establish a plan of extra compensation for
5 work performed during selected hours at an hourly rate or rates subject to approval
6 of the joint committee on employment relations. [✓] The secretary may establish a plan
7 of extra compensation for assistant district attorneys, which may include extra
8 compensation for work performed during selected hours or for special duty such as
9 on-call duty, at hourly rates subject to the approval of the joint committee on
10 employment relations. Eligibility for such extra compensation shall be as provided
11 in the compensation plan.

NOTE: This provision is amended to eliminate the authority of the secretary of employment relations to establish a plan of extra compensation for assistant district attorneys. The effect of this change is that the assistant district attorneys whose compensation is established in the compensation plan will be governed by the general extra compensation provisions of that plan.

12 SECTION 4. 230.13 (1) (intro.) of the statutes is amended to read:

13 230.13 (1) (intro.) Except as provided in s. 103.13, the secretary and the
14 administrator may ~~shall~~ keep records of the following personnel matters closed to the
15 public:

NOTE: Currently, under s. 230.13 (1), stats., the secretary of employment relations and the administrator of the division of merit recruitment and selection may keep certain personnel records closed to the public. These records relate to examination scores and ranks and other evaluations of applicants, dismissals, demotions and other disciplinary actions, pay survey data obtained from private employers and the names of those private employers. This provision requires, rather than permits, the secretary and the administrator to keep these personnel records closed to the public.

Insert
5-15

PROOF W/STATS.

ASSEMBLY BILL 958

SECTION 5

1 **SECTION 5.** 230.16 (8) [✓] of the statutes is repealed.

NOTE: Currently, the administrator of the division of merit recruitment and selection in the department of employment relations is authorized to designate a person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. The provision is not used. Therefore, it is repealed.

2 **SECTION 6.** 230.20 (3) [✓] of the statutes is repealed.

NOTE: Currently, applicants for a promotion to a position in the classified service in Wisconsin may not solicit "recommendations". This bill eliminates the prohibition.

3 **SECTION 7.** 230.33 (1) of the statutes is amended to read:

4 230.33 (1) A person appointed to an unclassified position by the governor,
5 elected officer, judicial body or by a legislative body or committee, ~~or by any other~~
6 ~~appointing authority when both the classified and unclassified positions are within~~
7 ~~his or her department,~~ shall be granted a leave of absence without pay for the
8 duration of the appointment and for 3 months thereafter, during which time the
9 person has restoration rights to the ~~former position~~ or equivalent position in the
10 department in which last employed in a classified position without loss of seniority.
11 The person shall also have reinstatement privileges for 3 years following
12 appointment to the unclassified service or for one year after termination of the
13 unclassified appointment whichever is longer. Restoration rights and reinstatement
14 privileges shall be forfeited if the reason for termination of the unclassified
15 appointment would also be reason for discharge from the former position in the
16 classified service.

NOTE: This provision is amended to limit its applicability to persons appointed to an unclassified position by the governor, elected official judicial body or by a legislative body or committee.

17 **SECTION 8.** 230.33 (1m) [✓] of the statutes is created to read:

18 230.33 (1m) A person appointed to an unclassified position by an appointing
19 authority other than an appointing authority described under sub. (1), [✓] when both the

Insert
6-16 ✓

ASSEMBLY BILL 958

1 classified and unclassified positions are within the appointing authority's
2 department, shall be granted a leave of absence without pay for the duration of the
3 appointment and for 3 months thereafter, during which time the person has
4 restoration rights to the former position or equivalent position in the department in
5 which last employed in a classified position without loss of seniority. The person
6 shall also have reinstatement privileges for ⁵ ~~3~~ years following appointment to the
7 unclassified service or for one year after termination of the unclassified appointment
8 whichever is longer. Restoration rights and reinstatement privileges shall be
9 forfeited if the reason for termination of the unclassified appointment would also be
10 reason for discharge from the former position in the classified service.

NOTE: This provision provides that a person who is appointed in an unclassified position by an appointing authority other than those listed in s. 230.33 (1), stats., when both the classified and unclassified positions are within the appointing authority's department, shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter. The person will have restoration and reinstatement rights that are the same as a person appointed to an unclassified position by those authorities listed in s. 230.33 (1), stats.

11 SECTION ^{auto ref A} ~~(9)~~ 230.33 (2) ^X of the statutes is amended to read:

12 230.33 (2) A person appointed to an unclassified position by an appointing
13 authority other than an ~~elected officer, judicial body, legislative body or committee~~
14 appointing authority described under sub. (1) [✓], to a department other than the one
15 in which the person was a classified employee may be granted a leave of absence
16 without pay at the option of the person's former appointing authority in accordance
17 with the leave of absence provisions in the rules of the secretary. An employee granted
18 a leave of absence shall have the same restoration rights and reinstatement
19 privileges as under sub. (1) (1m) [✓]. If not granted a leave of absence, the employee shall
20 be entitled only to the reinstatement privileges under sub. (1) (1m) [✓].

21 SECTION 10. 230.34 (1) (a) ^X of the statutes is amended to read:

PROOF w/STATS.

ASSEMBLY BILL 958

SECTION 10

1 230.34 (1) (a) An employe with permanent status in class or an employe who
2 has served with the state ~~or a county, or both,~~[✓] as an assistant district attorney for a
3 continuous period of 12 months or more may be removed, suspended without pay,
4 discharged, reduced in base pay or demoted only for just cause.

NOTE: This provision removes references to employes who have served with the
state or county or both, as an assistant district attorney for a continuous period of 12[✓]
months. All assistant district attorneys are state, rather than county, employes, effective
January 1, 1990.

5 **SECTION 11.** 230.34 (1) (ar)[✗] of the statutes is amended to read:

6 230.34 (1) (ar) Paragraphs (a) and (am) apply to all employes with permanent
7 status in class in the classified service and all employes who have served with the
8 state[✓] ~~or a county, or both,~~ as an assistant district attorney for a continuous period of
9 12 months or more, except that for employes specified in s. 111.81 (7) (a) in a collective
10 bargaining unit for which a representative is recognized or certified, or for employes
11 specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a
12 representative is certified, if a collective bargaining agreement is in effect covering
13 employes in the collective bargaining unit, the determination of just cause and all
14 aspects of the appeal procedure shall be governed by the provisions of the collective
15 bargaining agreement.

NOTE: This section deletes the reference to counties in this provision to be
consistent with the change made by SECTION ~~11~~[✗]. Auto ref A

16 **SECTION 12.** 230.40 (2)[✗] of the statutes is amended to read:

17 230.40 (2) If a person in the classified service declares an intention to run for
18 partisan political office the person shall be ~~given~~ placed on[✓] a leave of absence for the
19 duration of the election campaign and if elected shall separate from the classified
20 service on assuming the duties and responsibilities of such office.

NOTE: This provision removes a perceived ambiguity in whether a leave of absence
is discretionary if a person in the classified service declares an intention to run for
partisan political office. It provides that a person shall be placed on a leave of absence

PROOF W/STATS.

ASSEMBLY BILL 958

rather than "given" a leave of absence. This clarifies that the provision is not discretionary. The person must be placed on a leave of absence regardless of the wishes of the person or agency.

1 **SECTION 13.** 230.44 (1) (c) [✓] of the statutes is amended to read:

2 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employe has
3 permanent status in class, or an employe has served with the state [✓] ~~or a county, or~~
4 ~~both,~~ as an assistant district attorney for a continuous period of 12 months or more,
5 the employe may appeal a demotion, layoff, suspension, discharge or reduction in
6 base pay to the commission, if the appeal alleges that the decision was not based on
7 just cause.

NOTE: This section deletes the reference to counties to be consistent with the change
made by SECTION ~~10~~

(END) ✓

D-NOTE
↓

5-15

Section #. 230.13 (1) (intro.)^x of the statutes is amended to read:

230.13 (1) (intro.) Except as provided in sub. (3) and s. 103.13, the secretary and the administrator
~~may~~ ^{shall} keep records of the following personnel matters closed to the public:

History: 1971 c. 270; 1977 c. 196 s. 37; Stats. 1977 s. 230.13; 1979 c. 339; 1989 a. 31; 1991 a. 269, 317; 1997 a. 191.

6-16

Section #. 230.33 (1) of the statutes is amended to read:

to an unclassified position

230.33 (1) A person appointed by the governor, elected officer, judicial body or by a legislative body or committee, ~~or by any other appointing authority when both the classified and unclassified positions are within his or her department,~~ shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter, during which time the person has restoration rights to the former position or equivalent position in the department in which last employed without loss of seniority. The person shall also have reinstatement privileges for 5 years following appointment to the unclassified service or for one year after termination of the unclassified appointment whichever is longer. Restoration rights and reinstatement privileges shall be forfeited if the reason for termination of the unclassified appointment would also be reason for discharge from the former position in the classified service.

History: 1971 c. 270 s. 69; Stats. 1971 s. 16.27; 1973 c. 12; 1975 c. 189, 421; 1977 c. 196 ss. 56, 130 (5); 1977 c. 273; Stats. 1977 s. 230.33; 1983 a. 27 s. 2200 (15); 1991 a. 269; 1997 a. 307.

in a classified position

D-Note

In § 230.33 (1m), I ^{changed} the period for reinstatement from 3 years to 5 years. In this way, the period is consistent with that in § 230.33 (1). Is this OK?

RAC

Also, in the notes to the amendment to § 230.34 (1)(ar) and § 230.44 (1)(c), I ^{changed} SECTION 10 to SECTION 9.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0904/P1dn
RAC:jlg:ijs

February 8, 1999

In s. 230.33 (1m), I changed the period for reinstatement from 3 years to 5 years. In this way, the period is consistent with that in s. 230.33 (1). Is this OK?

Also, in the notes to the amendment to ss. 230.34 (1)(ar) and 230.44 (1)(c), I changed SECTION 10 to SECTION 9.

Richard A. Champagne
Legislative Attorney
Phone: (608) 266-9930
E-mail: Rick.Champagne@legis.state.wi.us

Champagne, Rick

From: Rose, Laura
Sent: Wednesday, March 24, 1999 9:49 AM
To: Champagne, Rick
Subject: LRB 0904/P1 (DER remedial legislation)

Hi Rick,

Bob Van Hoesen of DER called and had a suggested change to the analysis to LRB 0904/P1. On page 2, item 2, he said that the sentence in the middle of that paragraph should read: "According to DER, this provision may be interpreted in such a manner that the employer or employee may regard the granting of the leave of absence as discretionary." The last sentence of that paragraph should read, "According to DER, this change in the law will now make this provision mandatory on the employer and employee."

Call if questions. I hope you found everything you needed at Shopko!

Laura Rose
Senior Staff Attorney
Wisconsin Legislative Council Staff
One East Main St., Suite 401
PO Box 2536
Madison, WI 53701-2536
Phone: (608) 266-9791 Fax: (608) 266-3830
Laura.rose@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

Scord

LRB-0904/Pr P2
RAC:jlg:ijs

*Reddynd mcler
has been run*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

[Handwritten scribble]

Regen

1 AN ACT *to repeal* 20.923 (6) (n), 230.16 (8) and 230.20 (3); *to amend* 230.12 (1)
2 (c) 2., 230.13 (1) (intro.), 230.33 (1), 230.33 (2), 230.34 (1) (a), 230.34 (1) (ar),
3 230.40 (2) and 230.44 (1) (c); and *to create* 230.33 (1m) of the statutes; **relating**
4 **to:** restoration and reinstatement rights of classified employees appointed to
5 unclassified positions; leaves of absence from state employment to seek
6 partisan political office; compensation and employment rights of assistant
7 district attorneys; the salary of the position of Wisconsin veterans museum
8 superintendent; authority of the administrator of the division of merit
9 recruitment and selection in the department of employment relations to
10 appoint local examiners; solicitation of recommendations for positions in the
11 classified service of the state; and closed records relating to state employment
12 (suggested as remedial legislation by the department of employment relations).

Analysis by the Legislative Reference Bureau

This bill does all of the following:

1. Under current law, "a person appointed by the governor, elected officer, judicial body or by a legislative body or committee, or by any other appointing

authority when both the classified and unclassified positions are within his or her department," must be granted a leave of absence without pay for the duration of the unclassified appointment and for three months following the end of the appointment. During this period, the person has restoration rights to the state agency from which he or she last held an appointment in the classified service. According to the department of employment relations (DER), there is some ambiguity as to whether the classified and unclassified positions must be within the same department when the person is appointed by the governor, elected officer, judicial body or by a legislative body or committee for the person to be granted a leave of absence and have the restoration rights.

This bill clearly provides that a person employed in the classified service of this state and who is appointed to any unclassified position by the governor, an elected officer, a judicial body or by a legislative body or committee must be granted a leave of absence without pay for the duration of the unclassified appointment and for three months following the end of the appointment. During this period, the person has restoration rights to the state agency from which he or she last held an appointment in the classified service.

2. Under current law, if a person in the classified service of the state declares an intention to run for partisan political office the person shall be *given* a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office. According to DER, this provision may be interpreted in such a manner that the employer may regard the granting of the leave of absence as discretionary. This bill provides that if a person in the classified service declares an intention to run for partisan political office the person shall be *placed on* a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office. According to DER, this change in the law will now make this provision mandatory on the employer.

3. Under current law, assistant district attorneys are state employees. Other than assistant district attorneys who are supervisors, assistant district attorneys have their compensation established in collective bargaining agreements under the state employment labor relations act (SELRA). Before 1990, however, assistant district attorneys were not state employees and did not have their compensation established in a collective bargaining agreement under SELRA. Current law provides for extra compensation for assistant district attorneys in the compensation plan. This bill eliminates this provision, with the result that those assistant district attorneys whose compensation is established in the compensation plan are governed by the general extra compensation provisions of the compensation plan.

In addition, current law refers to certain employment rights of assistant district attorneys who first became state employees in 1990 and had accumulated at least 12 months of continuous service as county and state employees. These rights pertain to demotion, layoff, suspension and discharge. This bill eliminates the references to these assistant district attorneys who became state employees in 1990 and who had accumulated at least 12 months of continuous service as county and state employees.

or employee

and employee ✓

4. This bill eliminates a provision in current law that the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. Currently, there is no such position in state government; instead, the department of veterans affairs operates the Wisconsin veterans museum.

5. Under current law, the administrator of the division of merit recruitment and selection in DER is authorized to designate any person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. This bill eliminates this authority.

6. Under current law, an applicant for a promotion to a position in the classified service of this state may not solicit recommendations. This bill eliminates this prohibition.

7. Under current law, with certain exceptions, the secretary of employment relations and the administrator of the division of merit recruitment and selection in DER are authorized to keep closed to the public certain personnel records relating to examination scores and ranks and other evaluations of applicants for state employe positions, dismissals, demotions and other disciplinary actions affecting state employes and pay survey data obtained from private employers and the names of these private employers.

This bill requires, rather than authorizes, the secretary and the administrator to keep these records closed to the public.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employment relations and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 20.923 (6) (n) of the statutes is repealed.

NOTE: Under current law, the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. However, there is no such position. Therefore, this section is repealed.

2 **SECTION 2.** 230.12 (1) (c) 2. of the statutes is amended to read:

3 230.12 (1) (c) 2. The secretary may establish a plan of extra compensation for
4 work performed during selected hours at an hourly rate or rates subject to approval
5 of the joint committee on employment relations. ~~The secretary may establish a plan~~

1 ~~of extra compensation for assistant district attorneys, which may include extra~~
2 ~~compensation for work performed during selected hours or for special duty such as~~
3 ~~on-call duty, at hourly rates subject to the approval of the joint committee on~~
4 ~~employment relations. Eligibility for such extra compensation shall be as provided~~
5 ~~in the compensation plan.~~

NOTE: This provision is amended to eliminate the authority of the secretary of employment relations to establish a plan of extra compensation for assistant district attorneys. The effect of this change is that the assistant district attorneys whose compensation is established in the compensation plan will be governed by the general extra compensation provisions of that plan.

6 **SECTION 3.** 230.13 (1) (intro.) of the statutes is amended to read:

7 230.13 (1) (intro.) Except as provided in sub. (3) and s. 103.13, the secretary
8 and the administrator ~~may~~ shall keep records of the following personnel matters
9 closed to the public:

NOTE: Currently, under s. 230.13 (1), stats., the secretary of employment relations and the administrator of the division of merit recruitment and selection may keep certain personnel records closed to the public. These records relate to examination scores and ranks and other evaluations of applicants, dismissals, demotions and other disciplinary actions, pay survey data obtained from private employers and the names of those private employers. This provision requires, rather than permits, the secretary and the administrator to keep these personnel records closed to the public.

10 **SECTION 4.** 230.16 (8) of the statutes is repealed.

NOTE: Currently, the administrator of the division of merit recruitment and selection in the department of employment relations is authorized to designate a person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. The provision is not used. Therefore, it is repealed.

11 **SECTION 5.** 230.20 (3) of the statutes is repealed.

NOTE: Currently, applicants for a promotion to a position in the classified service in Wisconsin may not solicit "recommendations". This bill eliminates the prohibition.

12 **SECTION 6.** 230.33 (1) of the statutes is amended to read:

13 230.33 (1) A person appointed to an unclassified position by the governor,
14 elected officer, judicial body or by a legislative body or committee, ~~or by any other~~
15 ~~appointing authority when both the classified and unclassified positions are within~~

1 ~~his or her department~~, shall be granted a leave of absence without pay for the
2 duration of the appointment and for 3 months thereafter, during which time the
3 person has restoration rights to the former position or equivalent position in the
4 department in which last employed in a classified position without loss of seniority.
5 The person shall also have reinstatement privileges for 5 years following
6 appointment to the unclassified service or for one year after termination of the
7 unclassified appointment whichever is longer. Restoration rights and reinstatement
8 privileges shall be forfeited if the reason for termination of the unclassified
9 appointment would also be reason for discharge from the former position in the
10 classified service.

NOTE: This provision is amended to limit its applicability to persons appointed to
an unclassified position by the governor, elected official judicial body or by a legislative
body or committee.

11 **SECTION 7.** 230.33 (1m) of the statutes is created to read:

12 **230.33 (1m)** A person appointed to an unclassified position by an appointing
13 authority other than an appointing authority described under sub. (1), when both the
14 classified and unclassified positions are within the appointing authority's
15 department, shall be granted a leave of absence without pay for the duration of the
16 appointment and for 3 months thereafter, during which time the person has
17 restoration rights to the former position or equivalent position in the department in
18 which last employed in a classified position without loss of seniority. The person
19 shall also have reinstatement privileges for 5 years following appointment to the
20 unclassified service or for one year after termination of the unclassified appointment
21 whichever is longer. Restoration rights and reinstatement privileges shall be
22 forfeited if the reason for termination of the unclassified appointment would also be
23 reason for discharge from the former position in the classified service.

NOTE: This provision provides that a person who is appointed in an unclassified position by an appointing authority other than those listed in s. 230.33 (1), stats., when both the classified and unclassified positions are within the appointing authority's department, shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter. The person will have restoration and reinstatement rights that are the same as a person appointed to an unclassified position by those authorities listed in s. 230.33 (1), stats.

1 **SECTION 8.** 230.33 (2) of the statutes is amended to read:

2 230.33 (2) A person appointed to an unclassified position by an appointing
3 authority other than an ~~elected officer, judicial body, legislative body or committee~~
4 appointing authority described under sub. (1), to a department other than the one
5 in which the person was a classified employe may be granted a leave of absence
6 without pay at the option of the person's former appointing authority in accordance
7 with the leave of absence provisions in the rules of the secretary. An employe granted
8 a leave of absence shall have the same restoration rights and reinstatement
9 privileges as under sub. ~~(1)~~ (1m). If not granted a leave of absence, the employe shall
10 be entitled only to the reinstatement privileges under sub. ~~(1)~~ (1m).

11 **SECTION 9.** 230.34 (1) (a) of the statutes is amended to read:

12 230.34 (1) (a) An employe with permanent status in class or an employe who
13 has served with the state ~~or a county, or both~~, as an assistant district attorney for a
14 continuous period of 12 months or more may be removed, suspended without pay,
15 discharged, reduced in base pay or demoted only for just cause.

NOTE: This provision removes references to employes who have served with the state or county or both, as an assistant district attorney for a continuous period of 12 months. All assistant district attorneys are state, rather than county, employes, effective January 1, 1990.

16 **SECTION 10.** 230.34 (1) (ar) of the statutes is amended to read:

17 230.34 (1) (ar) Paragraphs (a) and (am) apply to all employes with permanent
18 status in class in the classified service and all employes who have served with the
19 state ~~or a county, or both~~, as an assistant district attorney for a continuous period of

1 12 months or more, except that for employees specified in s. 111.81 (7) (a) in a collective
2 bargaining unit for which a representative is recognized or certified, or for employees
3 specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a
4 representative is certified, if a collective bargaining agreement is in effect covering
5 employees in the collective bargaining unit, the determination of just cause and all
6 aspects of the appeal procedure shall be governed by the provisions of the collective
7 bargaining agreement.

NOTE: This section deletes the reference to counties in this provision to be
consistent with the change made by SECTION 8.

8 SECTION 11. 230.40 (2) of the statutes is amended to read:

9 230.40 (2) If a person in the classified service declares an intention to run for
10 partisan political office the person shall be ~~given~~ placed on a leave of absence for the
11 duration of the election campaign and if elected shall separate from the classified
12 service on assuming the duties and responsibilities of such office.

NOTE: This provision removes a perceived ambiguity in whether a leave of absence
is discretionary if a person in the classified service declares an intention to run for
partisan political office. It provides that a person shall be placed on a leave of absence
rather than "given" a leave of absence. This clarifies that the provision is not
discretionary. The person must be placed on a leave of absence regardless of the wishes
of the person or agency.

13 SECTION 12. 230.44 (1) (c) of the statutes is amended to read:

14 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employee has
15 permanent status in class, or an employee has served with the state ~~or a county, or~~
16 ~~both~~, as an assistant district attorney for a continuous period of 12 months or more,
17 the employee may appeal a demotion, layoff, suspension, discharge or reduction in
18 base pay to the commission, if the appeal alleges that the decision was not based on
19 just cause.

NOTE: This section deletes the reference to counties to be consistent with the change made by SECTION 8.

1

(END)

Champagne, Rick

From: Rose, Laura
Sent: Tuesday, October 26, 1999 2:54 PM
To: Champagne, Rick
Subject: RE: LRB 0904/P2

Senate please.

-----Original Message-----

From: Champagne, Rick
Sent: Tuesday, October 26, 1999 2:46 PM
To: Rose, Laura
Subject: RE: LRB 0904/P2

Laura --

Should we jacket the bill for the Senate or Assembly?

-----Original Message-----

From: Rose, Laura
Sent: Tuesday, October 26, 1999 2:25 PM
To: Champagne, Rick
Subject: LRB 0904/P2

Hi Rick,

The Law Revision committee approved introduction of LRB 0904/P2, without SECTION 3. Please delete that SECTION and have the jacketed copy of the draft sent over to me.

Thank you very much!!!

Laura Rose
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laura.rose@legis.state.wi.us

Champagne, Rick

From: Rose, Laura
Sent: Tuesday, October 26, 1999 4:31 PM
To: Champagne, Rick
Subject: FW: DER Remedial Bill

Oops, I hope this isn't too late. Did I ever forward this e-mail to you? If not, could you please look this over and make this change? Thanks!!!!

Laura

-----Original Message-----

From: VanHoesen, Bob
Sent: Tuesday, September 07, 1999 2:44 PM
To: Rose, Laura
Subject: DER Remedial Bill

Laura,

I just noticed something in the draft of our remedial bill: LRB 0904/P2.

I believe the cross reference in two of the notes is incorrect.

In the Notes to Sections 10 and 12, it is stated: "This section deletes the reference to counties in this provision to be consistent with the change made by Section 8."

These notes should actually point to Section 9 - or whatever the correct section becomes once the withdrawn open/closed records provision is dropped from the draft.

Thanks for all your help on our proposal.

Bob VH



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0904/P2 /

RAC:jlg:km

RM has
been run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

- 1 AN ACT *to repeal* 20.923 (6) (n), 230.16 (8) and 230.20 (3); *to amend* 230.12 (1)
2 (c) 2., 230.13 (1) (intro.), 230.33 (1), 230.33 (2), 230.34 (1) (a), 230.34 (1) (ar),
3 230.40 (2) and 230.44 (1) (c); and *to create* 230.33 (1m) of the statutes; **relating**
4 **to:** restoration and reinstatement rights of classified employees appointed to
5 unclassified positions; leaves of absence from state employment to seek
6 partisan political office; compensation and employment rights of assistant
7 district attorneys; the salary of the position of Wisconsin veterans museum
8 superintendent; authority of the administrator of the division of merit
9 recruitment and selection in the department of employment relations to
10 appoint local examiners; ^{and} solicitation of recommendations for positions in the
11 classified service of the state; ~~and closed records relating to state employment~~
12 (suggested as remedial legislation by the department of employment relations).

Analysis by the Legislative Reference Bureau

This bill does all of the following:

1. Under current law, "a person appointed by the governor, elected officer, judicial body or by a legislative body or committee, or by any other appointing

authority when both the classified and unclassified positions are within his or her department," must be granted a leave of absence without pay for the duration of the unclassified appointment and for three months following the end of the appointment. During this period, the person has restoration rights to the state agency from which he or she last held an appointment in the classified service. According to the department of employment relations (DER), there is some ambiguity as to whether the classified and unclassified positions must be within the same department when the person is appointed by the governor, elected officer, judicial body or by a legislative body or committee for the person to be granted a leave of absence and have the restoration rights.

This bill clearly provides that a person employed in the classified service of this state and who is appointed to any unclassified position by the governor, an elected officer, a judicial body or by a legislative body or committee must be granted a leave of absence without pay for the duration of the unclassified appointment and for three months following the end of the appointment. During this period, the person has restoration rights to the state agency from which he or she last held an appointment in the classified service.

2. Under current law, if a person in the classified service of the state declares an intention to run for partisan political office the person shall be *given* a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office. According to DER, this provision may be interpreted in such a manner that the employer or employee may regard the granting of the leave of absence as discretionary. This bill provides that if a person in the classified service declares an intention to run for partisan political office the person shall be *placed on* a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office. According to DER, this change in the law will now make this provision mandatory on the employer and employee.

3. Under current law, assistant district attorneys are state employees. Other than assistant district attorneys who are supervisors, assistant district attorneys have their compensation established in collective bargaining agreements under the state employment labor relations act (SELRA). Before 1990, however, assistant district attorneys were not state employees and did not have their compensation established in a collective bargaining agreement under SELRA. Current law provides for extra compensation for assistant district attorneys in the compensation plan. This bill eliminates this provision, with the result that those assistant district attorneys whose compensation is established in the compensation plan are governed by the general extra compensation provisions of the compensation plan.

In addition, current law refers to certain employment rights of assistant district attorneys who first became state employees in 1990 and had accumulated at least 12 months of continuous service as county and state employees. These rights pertain to demotion, layoff, suspension and discharge. This bill eliminates the references to these assistant district attorneys who became state employees in 1990 and who had accumulated at least 12 months of continuous service as county and state employees.

4. This bill eliminates a provision in current law that the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. Currently, there is no such position in state government; instead, the department of veterans affairs operates the Wisconsin veterans museum.

5. Under current law, the administrator of the division of merit recruitment and selection in DER is authorized to designate any person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. This bill eliminates this authority.

6. Under current law, an applicant for a promotion to a position in the classified service of this state may not solicit recommendations. This bill eliminates this prohibition.

7. Under current law, with certain exceptions, the secretary of employment relations and the administrator of the division of merit recruitment and selection in DER are authorized to keep closed to the public certain personnel records relating to examination scores and ranks and other evaluations of applicants for state employe positions, dismissals, demotions and other disciplinary actions affecting state employes and pay survey data obtained from private employers and the names of these private employers.

~~This bill requires, rather than authorizes, the secretary and the administrator to keep these records closed to the public.~~

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employment relations and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 20.923 (6) (n) of the statutes is repealed.

NOTE: Under current law, the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. However, there is no such position. Therefore, this section is repealed.

2 **SECTION 2.** 230.12 (1) (c) 2. of the statutes is amended to read:

3 230.12 (1) (c) 2. The secretary may establish a plan of extra compensation for
4 work performed during selected hours at an hourly rate or rates subject to approval
5 of the joint committee on employment relations. ~~The secretary may establish a plan~~

1 of extra compensation for assistant district attorneys, which may include extra
2 compensation for work performed during selected hours or for special duty such as
3 on-call duty, at hourly rates subject to the approval of the joint committee on
4 employment relations. Eligibility for such extra compensation shall be as provided
5 in the compensation plan.

NOTE: This provision is amended to eliminate the authority of the secretary of employment relations to establish a plan of extra compensation for assistant district attorneys. The effect of this change is that the assistant district attorneys whose compensation is established in the compensation plan will be governed by the general extra compensation provisions of that plan.

6 **SECTION 3.** 230.13 (1) (intro.) of the statutes is amended to read:
7 230.13 (1) (intro.) Except as provided in sub. (3) and s. 103.13, the secretary
8 and the administrator ~~may~~ shall keep records of the following personnel matters
9 closed to the public:

NOTE: Currently, under s. 230.13 (1), stats., the secretary of employment relations and the administrator of the division of merit recruitment and selection may keep certain personnel records closed to the public. These records relate to examination scores and ranks and other evaluations of applicants, dismissals, demotions and other disciplinary actions, pay survey data obtained from private employers and the names of those private employers. This provision requires, rather than permits, the secretary and the administrator to keep these personnel records closed to the public.

10 **SECTION 4.** 230.16 (8) of the statutes is repealed.

NOTE: Currently, the administrator of the division of merit recruitment and selection in the department of employment relations is authorized to designate a person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. The provision is not used. Therefore, it is repealed.

11 **SECTION 5.** 230.20 (3) of the statutes is repealed.

NOTE: Currently, applicants for a promotion to a position in the classified service in Wisconsin may not solicit "recommendations". This bill eliminates the prohibition.

12 **SECTION 6.** 230.33 (1) of the statutes is amended to read:

13 230.33 (1) A person appointed to an unclassified position by the governor,
14 elected officer, judicial body or by a legislative body or committee, ~~or by any other~~
15 ~~appointing authority when both the classified and unclassified positions are within~~

1 ~~his or her department~~, shall be granted a leave of absence without pay for the
2 duration of the appointment and for 3 months thereafter, during which time the
3 person has restoration rights to the former position or equivalent position in the
4 department in which last employed in a classified position without loss of seniority.
5 The person shall also have reinstatement privileges for 5 years following
6 appointment to the unclassified service or for one year after termination of the
7 unclassified appointment whichever is longer. Restoration rights and reinstatement
8 privileges shall be forfeited if the reason for termination of the unclassified
9 appointment would also be reason for discharge from the former position in the
10 classified service.

NOTE: This provision is amended to limit its applicability to persons appointed to
an unclassified position by the governor, elected official judicial body or by a legislative
body or committee.

11 **SECTION 7.** 230.33 (1m) of the statutes is created to read:

12 **230.33 (1m)** A person appointed to an unclassified position by an appointing
13 authority other than an appointing authority described under sub. (1), when both the
14 classified and unclassified positions are within the appointing authority's
15 department, shall be granted a leave of absence without pay for the duration of the
16 appointment and for 3 months thereafter, during which time the person has
17 restoration rights to the former position or equivalent position in the department in
18 which last employed in a classified position without loss of seniority. The person
19 shall also have reinstatement privileges for 5 years following appointment to the
20 unclassified service or for one year after termination of the unclassified appointment
21 whichever is longer. Restoration rights and reinstatement privileges shall be
22 forfeited if the reason for termination of the unclassified appointment would also be
23 reason for discharge from the former position in the classified service.

NOTE: This provision provides that a person who is appointed in an unclassified position by an appointing authority other than those listed in s. 230.33 (1), stats., when both the classified and unclassified positions are within the appointing authority's department, shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter. The person will have restoration and reinstatement rights that are the same as a person appointed to an unclassified position by those authorities listed in s. 230.33 (1), stats.

auto ref A

1 **SECTION 8.** 230.33 (2) of the statutes is amended to read:

2 230.33 (2) A person appointed to an unclassified position by an appointing
3 authority other than an elected officer, ~~judicial body, legislative body or committee~~
4 appointing authority described under sub. (1), to a department other than the one
5 in which the person was a classified employee may be granted a leave of absence
6 without pay at the option of the person's former appointing authority in accordance
7 with the leave of absence provisions in the rules of the secretary. An employee granted
8 a leave of absence shall have the same restoration rights and reinstatement
9 privileges as under sub. ~~(1)~~ (1m). If not granted a leave of absence, the employee shall
10 be entitled only to the reinstatement privileges under sub. ~~(1)~~ (1m).

11 **SECTION 9.** 230.34 (1) (a) of the statutes is amended to read:

12 230.34 (1) (a) An employee with permanent status in class or an employee who
13 has served with the state ~~or a county, or both~~, as an assistant district attorney for a
14 continuous period of 12 months or more may be removed, suspended without pay,
15 discharged, reduced in base pay or demoted only for just cause.

NOTE: This provision removes references to employees who have served with the state or county or both, as an assistant district attorney for a continuous period of 12 months. All assistant district attorneys are state, rather than county, employees, effective January 1, 1990.

16 **SECTION 10.** 230.34 (1) (ar) of the statutes is amended to read:

17 230.34 (1) (ar) Paragraphs (a) and (am) apply to all employees with permanent
18 status in class in the classified service and all employees who have served with the
19 state ~~or a county, or both~~, as an assistant district attorney for a continuous period of

1 12 months or more, except that for employees specified in s. 111.81 (7) (a) in a collective
2 bargaining unit for which a representative is recognized or certified, or for employees
3 specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a
4 representative is certified, if a collective bargaining agreement is in effect covering
5 employees in the collective bargaining unit, the determination of just cause and all
6 aspects of the appeal procedure shall be governed by the provisions of the collective
7 bargaining agreement.

NOTE: This section deletes the reference to counties in this provision to be
consistent with the change made by SECTION 10. *auto ref A*

8 **SECTION 11.** 230.40 (2) of the statutes is amended to read:

9 230.40 (2) If a person in the classified service declares an intention to run for
10 partisan political office the person shall be given placed on a leave of absence for the
11 duration of the election campaign and if elected shall separate from the classified
12 service on assuming the duties and responsibilities of such office.

NOTE: This provision removes a perceived ambiguity in whether a leave of absence
is discretionary if a person in the classified service declares an intention to run for
partisan political office. It provides that a person shall be placed on a leave of absence
rather than "given" a leave of absence. This clarifies that the provision is not
discretionary. The person must be placed on a leave of absence regardless of the wishes
of the person or agency.

13 **SECTION 12.** 230.44 (1) (c) of the statutes is amended to read:

14 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employee has
15 permanent status in class, or an employee has served with the state ~~or a county, or~~
16 ~~both,~~ as an assistant district attorney for a continuous period of 12 months or more,
17 the employee may appeal a demotion, layoff, suspension, discharge or reduction in
18 base pay to the commission, if the appeal alleges that the decision was not based on
19 just cause.

NOTE: This section deletes the reference to counties to be consistent with the change
made by SECTION 8 ~~of~~ *auto repa*

(END)





State of Wisconsin
1999 - 2000 LEGISLATURE

Corrected Copy
LRB-0904/1
RAC:jlgljf

1999 SENATE BILL 268

October 28, 1999 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Labor.

1 **AN ACT to repeal** 20.923 (6) (n), 230.16 (8) and 230.20 (3); **to amend** 230.12 (1)
2 (c) 2., 230.33 (1), 230.33 (2), 230.34 (1) (a), 230.34 (1) (ar), 230.40 (2) and 230.44
3 (1) (c); and **to create** 230.33 (1m) of the statutes; **relating to:** restoration and
4 reinstatement rights of classified employees appointed to unclassified positions;
5 leaves of absence from state employment to seek partisan political office;
6 compensation and employment rights of assistant district attorneys; the salary
7 of the position of Wisconsin veterans museum superintendent; authority of the
8 administrator of the division of merit recruitment and selection in the
9 department of employment relations to appoint local examiners; and
10 solicitation of recommendations for positions in the classified service of the
11 state (suggested as remedial legislation by the department of employment
12 relations).

Analysis by the Legislative Reference Bureau

This bill does all of the following:

1. Under current law, "a person appointed by the governor, elected officer, judicial body or by a legislative body or committee, or by any other appointing

SENATE BILL 268

SECTION 7

1 privileges as under sub. ~~(1)~~ (1m). If not granted a leave of absence, the employee shall
2 be entitled only to the reinstatement privileges under sub. ~~(1)~~ (1m).

3 SECTION 8. 230.34 (1) (a) of the statutes is amended to read:

4 230.34 (1) (a) An employee with permanent status in class or an employee who
5 has served with the state ~~or a county, or both,~~ as an assistant district attorney for a
6 continuous period of 12 months or more may be removed, suspended without pay,
7 discharged, reduced in base pay or demoted only for just cause.

NOTE: This provision removes references to employees who have served with the state or county or both, as an assistant district attorney for a continuous period of 12 months. All assistant district attorneys are state, rather than county, employees, effective January 1, 1990.

8 SECTION 9. 230.34 (1) (ar) of the statutes is amended to read:

9 230.34 (1) (ar) Paragraphs (a) and (am) apply to all employees with permanent
10 status in class in the classified service and all employees who have served with the
11 state ~~or a county, or both,~~ as an assistant district attorney for a continuous period of
12 12 months or more, except that for employees specified in s. 111.81 (7) (a) in a collective
13 bargaining unit for which a representative is recognized or certified, or for employees
14 specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a
15 representative is certified, if a collective bargaining agreement is in effect covering
16 employees in the collective bargaining unit, the determination of just cause and all
17 aspects of the appeal procedure shall be governed by the provisions of the collective
18 bargaining agreement.

NOTE: This section deletes the reference to counties in this provision to be consistent with the change made by SECTION 1.

19 SECTION 10. 230.40 (2) of the statutes is amended to read:

20 230.40 (2) If a person in the classified service declares an intention to run for
21 partisan political office the person shall be ~~given~~ placed on a leave of absence for the

SENATE BILL 268

- 1 duration of the election campaign and if elected shall separate from the classified
2 service on assuming the duties and responsibilities of such office.

NOTE: This provision removes a perceived ambiguity in whether a leave of absence is discretionary if a person in the classified service declares an intention to run for partisan political office. It provides that a person shall be placed on a leave of absence rather than "given" a leave of absence. This clarifies that the provision is not discretionary. The person must be placed on a leave of absence regardless of the wishes of the person or agency.

- 3 SECTION 11. 230.44 (1) (c) of the statutes is amended to read:

- 4 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employe has
5 permanent status in class, or an employe has served with the state ~~or a county, or~~
6 ~~both,~~ as an assistant district attorney for a continuous period of 12 months or more,
7 the employe may appeal a demotion, layoff, suspension, discharge or reduction in
8 base pay to the commission, if the appeal alleges that the decision was not based on
9 just cause.

NOTE: This section deletes the reference to counties to be consistent with the change
made by SECTION 7.

10

(END)

8